

INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

Section 1. Purpose. This regulation establishes the conditions and procedures under which the denial of a request for the declassification of national security information and material originated more than ten (10) years ago may be appealed to the Interagency Classification Review Committee, hereinafter referred to as the Committee.

Section 2. Establishment and Jurisdiction of the Committee.

A. Establishment and Composition. Pursuant to Section 7 of Executive Order 11652, "Classification and Declassification of National Security Information and Material," June 1, 1972, hereinafter referred to as the Order, the Committee has been established by the National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information of May 17, 1972, hereinafter referred to as the Directive. The Committee is composed of the Archivist of the United States,* Senior representatives of the Departments of State, Defense and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National Security Council staff and a Chairman designated by the President. Representatives of other Departments in the executive branch may be invited to meet with the Committee on matters of particular interest to those Departments, but shall have no vote. The Committee shall meet regularly and on a continuing basis

*A recommendation to this effect should be made to the President that he add the Archivist of the United States to the Committee.

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shall review and take action to ensure compliance with the Order and Directive. In the absence or incapacity of the Chairman, an Acting Chairman chosen by the Committee will act as Chairman for all purposes. A quorum of five members, or their designated alternates, is required to consider or act on appeals to the Committee. Committee decisions shall require a majority vote of the members or their designated alternates present.

B. Jurisdiction. The Committee shall have jurisdiction to consider and act upon appeals from a determination by a Departmental Committee or the Archivist of the United States that national security information and material classified pursuant to E.O. 11652, or its predecessor Orders, requires continued classification under Section 5 of the Order and does not involve the application of the Atomic Energy Act of 1954, as amended.* Hereafter, the terms "Departmental Committee" and "Department" include the Archivist, where appropriate.

Section 3. Requests for Declassification.

A. An appeal from a Departmental Committee's denial of a declassification request involving documents originated more than ten (10) years ago should be submitted to the Executive Director, Interagency Classification Review Committee, Executive Office Building, Washington, D.C. 20506. The appeal shall include the following

*CIA is considering recommending additional reference of Section 102(d)(3) of the
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information: an identification or description of the document or documents for which declassification was requested and a statement of the Department's action denying the request. Whenever possible, copies of all correspondence to and from the Department concerned should be included and a concise statement of the reasons why the requester's appeal should be granted.

B. Exhaustion of Other Remedies. No appeal will be considered until the requester has exhausted all administrative remedies afforded him by the regulations of the Department concerned; provided however, that if the Departmental Committee has not acted within thirty (30) days of the date the request is appealed to the Departmental Committee the request shall be deemed denied, and the requester is thereupon entitled to appeal to the Committee. However the request shall not be deemed denied if the Department has advised the requester that the request relates to documents requiring the review of one or more other Departments or foreign Governments.

C. Acceptance of Appeal. An appeal of a determination denying the declassification of national security information and material which is ten (10) or more years old, shall be accepted for review by the Committee if, in the sole discretion of the Committee, the appeal raises substantial and important issues. "Substantial and important issues" may be involved because of the character of the documents

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to other classified documents. To the extent required for this determination, the Chairman may request the Department concerned to furnish copies of the documents, a summary of their contents or other pertinent information. An appeal for the release of documents which would otherwise be exempt from disclosure under section 552 of title 5 U. S. Code or other provision of law, will not be accepted for declassification review by the Committee. Likewise, requests for declassification which have been denied because the document has not been described with sufficient particularity to enable it to be identified, or because the record cannot be obtained with a reasonable amount of effort, will not be accepted by the Committee, as the denial is based on reasons other than its continuing classification. A requester whose appeal is not accepted for review by the Committee shall be promptly notified.

D. Consideration of Appeal. Upon a determination as to whether the appeal meets the requirements of A., B., and C. above, the requester will be notified. The Department from whose decision the appeal has been taken and accepted by the Committee shall, upon request of the Chairman, furnish to the Committee ten (10) copies of the following: all correspondence to and from the requester, the decision of the Departmental Committee denying the request, and the classified documents in question. Should the documents require special handling because of their sensitivity or volume, the Chairman

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shall work out alternate arrangements with the Department Head for conducting a review of the documents. A copy of the complete record, consisting of the requester's appeal and the Department's response, shall be furnished to each Committee member, under appropriate safeguards, at least one week before the scheduled review.

E. Committee Review. Appeals to the Committee will be considered in the order that they are accepted for appeal. The Committee's review of the record will be in closed session in order to facilitate full inquiry into matters that may be classified. [A Committee member whose Department has denied a request shall have no vote, but may participate in the discussions,]* The burden of persuasion is on the Department to show that continued classification is required under the provisions of section 5 of the Order. Upon the Committee's determination that the requested material no longer warrants classification in whole or in part, the Chairman shall, in consultation with the affected Department or Departments assure that appropriate action is taken.

F. Decision. The requester whose appeal has been accepted shall be notified in writing as to the Committee's decision. Should the appeal be denied in whole or in part, the notification shall include a statement, in unclassified form, explaining the reason for the decision.

*This sentence is proposed as an alternative. By its omission, it is intended that the Committee member whose Department has denied a request shall not be disqualified from voting.